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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,128	02/23/2004	Oswaldo Penuela	PREDYN-44174	1666

26252 7590 06/03/2005  
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EXAMINER

TAYLOR, APRIL ALICIA

ART UNIT PAPER NUMBER

2876

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/785,128

Applicant(s)

PENUELA ET AL.

Examiner

April A. Taylor

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-87 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-87 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/23/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claims 5, 14-22, 24-66, 72, and 82 are objected to because of the following informalities:

Re claim 5: Substitute "is adapted to detect" with -- detects -- (see line 1).

Re claim 14: Substitute "is adapted to convey" with -- conveys -- (see line 2).

Re claim 15: Substitute "adapted to detect" with -- detecting -- (see line 1).

Re claim 17: Substitute "is adapted to detect" with -- detects -- (see line 1).

Re claim 22: Substitute "is adapted to convey" with -- conveys -- (see line 2).

Re claim 24: Substitute "adapted to communicate" with -- communicating -- (see line 2).

Re claim 26: Substitute "adapted to provide" with -- for providing -- (see line 1).

Re claim 28: Substitute "is adapted to detect" with -- detects -- (see line 1).

Re claim 34: Substitute "adapted to detect" with -- detecting -- (see line 1).

Re claim 40: Substitute "is adapted to convey" with -- conveys -- (see line 2).

Re claim 42: Substitute "adapted to communicate" with -- communicating -- (see line 2).

Re claim 44: Substitute "adapted to be worn" with -- being worn -- (see line 3).

Re claim 44: Substitute "adapted to communicate" with -- for communicating -- (see line 6).

Re claim 46: Substitute "is adapted to detect" with -- detects -- (see line 1).

Re claim 51: Substitute "adapted to detect" with -- detecting -- (see line 2).

Art Unit: 2876

Re claim 56: Substitute "adapted to be worn" with -- being worn -- (see line 3).

Re claim 56: Substitute "adapted to communicate" with -- for communicating --  
(see line 6).

Re claim 58: Substitute "is adapted to detect" with -- detects -- (see line 1).

Re claim 62: Substitute "adapted to detect" with -- detecting -- (see line 2).

Re claim 72: Substitute "is adapted to detect" with -- detects -- (see line 1).

Re claim 82: Substitute "is adapted to detect" with -- detects -- (see line 1).

Appropriate correction is required.

(Note: Claims 16, 18-21, 23, 25, 27, 29-33, 35-39, 41, 43, 45, 47-50, 52-55, 57, 59-61,  
and 63-66 are objected to since they are dependent upon an objected claim).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that  
form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by  
another filed in the United States before the invention by the applicant for patent or (2) a patent  
granted on an application for patent by another filed in the United States before the invention by the  
applicant for patent, except that an international application filed under the treaty defined in section  
351(a) shall have the effects for purposes of this subsection of an application filed in the United States  
only if the international application designated the United States and was published under Article 21(2)  
of such treaty in the English language.

Claims 1-3, 5-14, 23-33, 41-50, 56-61, 67-73, 75-83, and 85-87 are rejected  
under 35 U.S.C. 102(e) as being anticipated by Cho et al (US 6,628,201) (hereinafter  
Cho).

Re claims 1-3, 6, 11-14, 26, 27, 32, 33, 44, 45, 49, 50, 56, 57, and 61: Cho  
teaches a radiation measurement alarm system including a device 2 having a unique

Art Unit: 2876

identification and for providing information about an environmental condition, the device 2 comprises a sensor physically associated with a user for detecting predetermined environmental hazards; means associated with the sensor for notifying the user or a third party of the detection of the environmental hazard exceeding a predefined limit; wherein the device comprises a wristband; wherein the device comprises a tag attached to the user; and means for conveying information obtained from the sensor and the unique identification to a third party, wherein the conveying means comprises a radio frequency transmitter. (See col. 9, line 1 to col. 10, line 38; and col. 12, line 48 to col. 14, line 60)

Re claims 5, 28, 46, and 58: Cho teaches wherein the sensor detects radiation (see col. 9, lines 1+).

Re claims 7, 8, 29, 30, 47, and 59: Cho teaches wherein the notifying means comprises an alarm for notifying the user of the detected environmental hazard; and wherein the alarm comprises a visual alarm (see col. 9, line 22 to col. 10, line 38).

Re claims 9, 10, 31, 48, and 60: Cho teaches wherein the alarm is operably connected to an electronic circuit that communicates with the sensor; and wherein the alarm comprises an audible alarm (see col. 9, line 22 to col. 10, line 38).

Re claims 23 and 41: Cho teaches wherein the device is removably attached to the user (see figure 3).

Re claims 24, 25, 42, and 43: Cho teaches wherein the notifying means includes an electronic circuit for communicating with a receiver not physically associated with the

Art Unit: 2876

device; and wherein the electronic circuitry includes data storage means (see col. 9, line 22 to col. 10, line 38; and col. 12, line 48 to col. 14, line 60).

Re claims 67-71, 75, and 79-81: Cho teaches a method for monitoring environmental conditions of users in a potentially hazardous environment, comprising the steps of: assigning each user a device having a unique identification; logging each identification into a database; detecting a predetermined environmental hazard using a sensor of one or more of the devices; conveying the unique identification and sensor information from the one or more devices to a receiver; identifying the one or more devices detecting the predetermined environmental hazard; notifying the one or more users of the identified devices of the detection of the hazard; determining if the detected hazard exceeds a predefined limit; attaching a device to each user; and wherein the device comprises a wristband. (See col. 9, line 22 to col. 10, line 38; and col. 12, line 48 to col. 14, line 60)

Re claims 72 and 82: Cho teaches wherein the sensor detects radiation (see col. 9, line 1+).

Re claims 73 and 83: Cho teaches wherein the detecting step includes detecting a user physical condition hazard (see col. 9, line 22 to col. 10, line 38).

Re claims 76 and 85: Cho teaches using a radio frequency transmitter to transmit the unique identification and sensor information from the one or more devices to the receiver (see col. 9, line 22 to col. 10, line 38; and col. 12, line 48 to col. 14, line 60).

Re claims 77 and 86: Cho teaches wherein the notifying step includes the step of activating an alarm to notify the one or more user of the detection of the hazard

Art Unit: 2876

exceeding a predefined limit (see col. 9, line 22 to col. 10, line 38; and col. 12, line 48 to col. 14, line 60).

Re claims 78 and 87: Cho teaches the step of continuously monitoring the user in real time to create control data prior to detecting an abnormal physical condition (see col. 9, line 22 to col. 10, line 38; and col. 12, line 48 to col. 14, line 60).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cho et al (US 6,628,201) (hereinafter Cho). The teachings of Cho have been discussed above.

Cho fails to teach or fairly suggest wherein the device comprises a patch attached to the user. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the notoriously old and well known patch to the teachings of Cho to provide the user with a device that can be worn in a manner desired by the user. Thus, it would have been an obvious expedient to provide a device comprising a patch attached to a user, as it would have been a matter of design choice of the manufacturer.

6. Claims 15-22, 34-40, 51-55, 62-66, 74, and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cho et al (US 6,628,201) (hereinafter Cho) in view of Cobb (US 5,771,001). The teachings of Cho have been discussed above.

Cho fails to teach or fairly suggest a second sensor for detecting physical conditions of the user such as blood pressure, heart rate, temperature, oxygen level, glucose level, skin condition, blood chemistry, protein levels, carbohydrate levels, lipid levels, or genetic material levels or changes of the user; an audible or visual alarm operably connected to an electronic circuit that communicates with the second sensor; and means for conveying information obtained from the second sensor to a third party, wherein the conveying means comprises a radio frequency transmitter.

Cobb teaches a personal alarm system including a device 20 having a unique identification, the device comprising a sensor for detecting physical conditions of the user such as blood pressure, heart rate, and temperature; an audible or visual alarm operably connected to an electronic circuit that communicates with the sensor; and means for conveying information obtained from the sensor and the unique identification



to a third party, wherein the conveying means comprises a radio frequency transmitter.  
(See col. 3, line 50 to col. 4, line 55)

In view of Cobb's teaching, it would have been obvious to one of ordinary skill in the art at the time the invention was made to integrate the well known sensor for detecting physical conditions of an user and means for transmitting the detected information to an user or third party to the teachings of Cho in order to provide additional information to the user or third party regarding the user health so that the user or third party is fully aware of the medical condition of the user.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Shih et al (US 6,703,922) discloses a method for monitoring exposure time of workers in a workplace.

Lovejoy et al (US 6,031,454) discloses a worker specific exposure monitor.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to April A. Taylor whose telephone number is (571) 272-2403. The examiner can normally be reached on Monday - Friday from 6:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Communications via Internet e-mail regarding this application, other than

those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [april.taylor@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



AAT

31 May 2005



**THIEN M. LE**  
**PRIMARY EXAMINER**